

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

**ORIGINAL**

JUL 30 1993

In the Matter of

Replacement of Part 90 by Part 88  
to Revise the Private Land Mobile  
Radio Services and Modify the  
Policies Governing Them

PR Docket 92-235

REPLY COMMENTS OF THE  
AMERICAN AUTOMOBILE ASSOCIATION, INC.

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### SUMMARY

The AAA concurs with broad support for priority treatment of radio services promoting safety of life and property by non-government entities. AAA urges that its frequencies be placed in the Public Safety Radio Service, subject to several conditions: (1) AAA would not have access to other public safety frequencies; (2) other public safety agencies would not have access to AAA frequencies; and (3) the AAA would retain its own frequency coordination.

As an alternative, AAA supports numerous commentors proposing creation of a pool devoted to "critical use" radio services promoting safety of life and property by Private Land Mobile Radio Service (PLMRS) licensees not eligible for the Public Safety Radio Service. Establishment of this "critical use" pool, for which AAA adopts the term Industrial Safety Service (used by American Petroleum Institute), would recognize that critical emergency response functions are performed by non-government PLMRS licensees, as well as the government agencies in the Public Safety Radio Service. AAA concurs with other comments noting this safety use by private entities, and attached hereto as Exhibits 1 to 4 is documentation of but a few of the numerous instances where AAA clubs provided emergency safety response. These Reply Comments propose eligibility criteria and exclusivity standards for the Industrial Safety Service.

The record supports award of exclusivity based upon safety use or other showings in addition to the simple mobile loading count currently used. AAA concurs with numerous commentors urging additional standards for exclusivity, and for award of exclusive use overlay (EUO). Exclusivity showings which have broad support on the record include (1) safety use; (2) system design or geographic considerations; and (3) traffic volume. AAA frequencies should be awarded exclusive use based upon safety considerations, as documented herein, and on traffic volumes.

AAA urges that coordination of auto club frequencies remain the responsibility of eligible auto club associations. The problem raised by commentors of competing coordination recommendations can only be solved by development of a "real time" database. Elimination of representational coordination would not solve the problem of competing coordination recommendations, since there would still be three coordinators accessing the general category pool. Moreover, the consolidation coordinator may not be attuned to the needs of the particular users. AAA urges development of a "real time" database and continuation of existing representational coordination.

AAA concurs with very broad support on the record for abandoning the Commission's proposed "vertical stacking" requirement for coordinators. As AAA noted in its initial comments, requiring a coordinator to completely stack a

channel before recommending licensing on the next unused channel amounts to a form of warehousing in frequencies, and is inefficient and harmful to the provision of quality service to the public. The AAA urges that frequencies should be put to use, not withheld from use.

AAA concurs with near unanimous opposition to effective radiated power (ERP) restrictions based upon height above average terrain (HAAT). The Commission should heed the overwhelming opposition from every important sector of the PLMRS community on this issue. The proposed onerous power restriction should be abandoned. These restrictions would

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Pursuant to Rule Section 1.415(b), the American Automobile Association, Inc. (AAA) submits its Reply Comments in response to the comments earlier filed in the captioned proceeding.

OVERVIEW

AAA is pleased to submit these Reply Comments in the Commission's docket to refarm Private Land Mobile Radio Services (PLMRS) spectrum below 512 MHz. The AAA submitted comments in this proceeding's initial round, and now desires to address other commentors which impact on AAA positions.

AAA supports the Commission's initiative to make PLMRS spectrum use more efficient. Refarming spectrum used by such a diverse group as PLMRS licensees is an ambitious undertaking that has drawn criticism from every quarter. However, despite the controversy, initial comments revealed large areas of agreement among PLMRS licensees in key issues such as the narrowbanding schedule, and power restrictions. AAA urges the Commission to resist the temptation to use the controversy

generated as a reason to ignore comments filed in this proceeding. Rather, AAA urges the Commission to craft new Part 88 rules based upon the areas of agreement emerging among diverse users.

The Commission likely will soon receive from Congress long sought after authority to license spectrum by competitive bidding. Pending legislation also may create some form of regulatory parity by establishing a common carrier category of commercial mobile service provider. The Commission would be given discretion to enforce by rulemaking selected portions of Title II of the Communications Act of 1934, as amended (the Act). AAA urges that the Commission consider the effect of this legislation (if passed) on what now is private radio. First, the new legislation likely would require fairly uniform regulatory treatment of what now are separate private radio and common carrier services. The Commission will have to decide whether to regulate the new commercial mobile service provider under Part 22, or under Part 90 (or the new Part 88), or by establishing yet a third rule part. The Commission should seriously consider postponing release of new Part 88 rules, so as to coordinate this action with regulation of the new commercial mobile services category.

Second, language in both the House and Senate versions of parity legislation evidence congressional intent that private radio remain a separate and distinct service. Numerous comments filed in the refarming docket have



response function, or (3) create a new business safety service. These AAA Reply Comments propose eligibility requirements for a business safety service providing

up spectrum, but rather would require additional spectrum to implement.

Finally, AAA is pleased to join in broad support for the LMCC migration plan that calls for a mandatory channel split to 12.5 KHz by the year 2004, and for the Commission to later revisit whether to split again to 6.25 KHz.

**I. THE AAA ACTIVELY PROMOTES SAFETY OF LIFE AND PROPERTY, AND DESERVES PRIORITY TREATMENT AS AN EMERGENCY RESPONSE SERVICE.**

The record shows broad support for priority treatment of radio services promoting safety of life and property, that do not now enjoy the preferred status of the government Public Safety Radio Service.<sup>1</sup> The broad support of the record dovetails with the Communications Act of 1934, as amended (the Act), which makes "promotion of safety of life and property" a fundamental spectrum management goal, without regard to the government status of the service provider. 47 U.S.C. §§ 151, 332. Since it actively promotes safety, thereby fulfilling a fundamental spectrum management goal articulated by the Act, AAA should receive priority treatment from authority delegated by the Act.

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<sup>1</sup>See e.g. Comments of Utilities Telecommunications Council (UTC) (preferential EUO status); American Petroleum Institute (API) at page 7 (creation of Industrial Safety Pool); Industrial Telecommunications Association, Inc., et. al. (ITA) at page 23 (creation of Private Industrial Service), Alarm Industry Central Committee (AICC) (safety function of alarm services); and Senses International (Safecom) (special recognition for industrial "life-grade" radio service).

Thus, AAA urges that its frequencies be placed in the Public Safety Radio Service, provided that there be no net change in spectrum allocation: AAA would not have access to other Public Safety frequencies, and other Public Safety agencies would not have access to AAA frequencies; and further provided that the AAA retain its own frequency coordination.

As an alternative, the AAA supports commentators proposing creation of a pool devoted to "critical use" radio services promoting safety of life and property.<sup>2</sup> The proposed Industrial Safety Service would be separate from the government Public Safety Service and would duplicate that Service's largely (but not exclusively) safety function.

Establishment of the Industrial Safety Service would further the public interest by encouraging safety uses by PLMRS licensees. API comments correctly note at page 7 that PLMRS safety "uses transcend those of many other users who employ their mobile radio communications systems primarily for commercial purposes." As a non-profit, membership supported association, AAA uses its radio systems primarily for promoting safety. The members of the new Industrial Safety Service would use frequencies assigned to the pool to perform a mix of functions ranging from emergency response to ordinary

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<sup>2</sup>See, supra, n.1. Various comments utilized different terms for a common idea. API recommended an Industrial Safety Service; ITA denominated its proposal the Private Industrial Service; and Safecom aptly used the term "life-grade" radio services. For sake of simplicity, the AAA adopts API's term, Industrial Safety Service.

business use. As noted below, the AAA clubs prioritize calls, with "HOT" or priority calls getting immediate emergency response treatment. Similarly, it should be recognized that members of the government Public Safety Service use their radio services for a mix of purposes, all of it comprising legitimate Public Safety Service radio use, but only a portion of it devoted to emergency response. Likewise, members of the Industrial Safety Service would use the radio for a mix of purposes, some substantial portion of which would be emergency response.

By establishing the Industrial Safety Service, the Commission would more completely fulfill its mandate imposed by the Act, by allocating spectrum "for the purpose of promoting the safety of life and property." 47 U.S.C. §§ 151, 332. As AAA noted in initial comments, the Commission does not fully discharge its statutory duty merely by allocating spectrum to government safety entities, as important as these agencies are. Rather, the Commission would more completely fulfill the Act's purpose by also encouraging private use of the spectrum to promote safety.

Eligibility criteria for the Industrial Safety Service should require protection of safety of life and property. AAA proposes three such criteria. First, the candidate must make emergency response radio transmissions on a regularly recurring basis. Second, these emergency response transmissions should be made in furtherance of the licensee's

primary line of business. Good Samaritan use of the radio always should be applauded, whether it is entirely voluntary, or even ancillary to the licensee's primary business. However, the purpose of this service is to facilitate operations of licensees whose primary business requires recurring transmission of emergency response messages. AAA emergency response or "HOT" calls, documented herein, would make the auto clubs eligible for this pool, since such emergency response to calls from police and stranded motorists is AAA's primary business. Finally, there should be an element of urgency associated with the emergency response transmissions.

In recognition of the safety function performed by eligible licensees, the Industrial Safety Service should carry relaxed exclusivity standards. Service loading requirements should correspond to those of the government Public Safety Service. Further, as urged below, exclusivity in this service also should be granted upon certain special showings, such as air time usage or danger to the public resulting from channel crowding due to licensed co-channel users. Consistent with their safety related functions, service eligibles should be able to implement exclusive use overlay (EUO) in the General Category Pool and/or Non-Commercial Pool merely upon showing membership in the Industrial Safety Service and proposing type of use which makes them eligible. At a minimum, service members should be able to implement EUO in the General

Category Pool upon meeting exclusivity requirements for the Industrial Safety Service.

The AAA urges that current auto club frequencies should remain exclusively assigned to auto club use, while still placed in the Industrial Safety Service. This can be simply accomplished by placing a restriction in the margin of the allocation table for those frequencies to be placed into the pool. Finally, as discussed below, the AAA should remain the sole frequency coordinating entity for auto club frequencies.

Establishment of the Industrial Safety Service would acknowledge the reality that safety protection is performed

their automobile in which Lexi's oxygen bottles had been inadvertently locked. The letter states

Lexi, who was standing right next to me, was beginning to struggle with her breathing. It's difficult for me to express how desperate I felt. I had been on the phone with the Auto Club for perhaps three to five minutes when a tow truck pulled up. The driver jumped out of the truck and by the time I could thank the dispatcher I was talking to and get to my car, my door was open and Lexi was back on her oxygen. The Shell station attendant, my daughters and I were all absolutely amazed at how quickly we had gotten help. I'm certain it would have taken longer to get an ambulance to us. (Emphasis added.)

The above described emergency rescue certainly qualifies as use of PLMRS spectrum to protect public safety, regardless of whether a government or non-government entity responded.

Also attached at Exhibit 1, page 4 is an Activity Report dated March 20, 1991 reporting on the late night work of Auto Club of Southern California Service Patrol member James Hoke over a remote stretch of Interstate 8 during a snow storm. The report states

[t]hat night more than a foot of snow fell, causing the poor visibility, and the snow plows seemed few and far between allowing for a lot of snow accumulation. CHP and Caltrans were both made aware of my presence in the area, and were glad to see the Auto Club there to help.

According to the Activity Report, Mr. Hoke spent four hours canvassing a treacherous stretch of freeway, providing emergency assistance where needed. At one point, Mr. Hoke towed three semi-trucks that were stuck abreast and were

completely blocking the road. The Activity Report notes, "[i]n all I pulled four semi-trucks up the grade, west of Buckham Springs, three of them to the top of the hill. Each time it reopened the traffic lanes." (Emphasis added.) In snow conditions, the clearing of traffic lanes can prevent a multi-car pile up, as drivers find themselves unable to stop on the slick roads. Again, it was not relevant to the safety of drivers stuck on Interstate 8 whether a government or non-government entity reopened traffic lanes. AAA was protecting public safety.


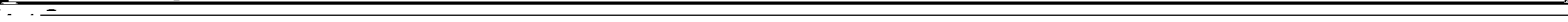



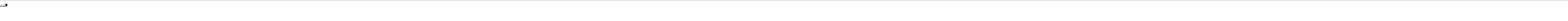























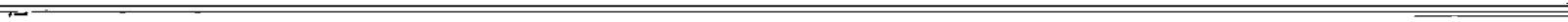










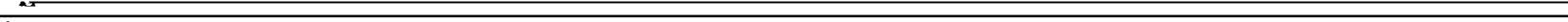








Attached at Exhibit 1, page 1 is a July 9, 1993 letter from the Auto Club of Southern California (ACSC) stating that

ACSC averages 2,000 service requests per month that are classified as "HOT" calls. These are calls where members are fearful for their safety, and ACSC and the contractor network respond by "dropping everything else" to expedite service to the member.... Many members are aware that police departments do not have the resources to dispatch a police car anytime a member is concerned about their personal safety.... By responding as a "HOT" call we are, in fact, providing a service many police agencies cannot provide. It is interesting to note the largest majority of our "HOT" calls are "baby-locked-in-car," and when it comes to getting the children out, members call us, not 911 for rescue. These members clearly place us in the "public safety" business. (Emphasis added.)

The public does not differentiate between government or non-government for protection of their safety in these instances; neither should the FCC when making frequency allocation decisions.

Attached at Exhibit 2 are pages 20 and 21 of the Missouri/Southern Illinois/Kansas/Arkansas AAA Operations Manual, outlining procedures for responding to priority calls. The three highest priority grade calls are required to receive expedited and ongoing attention until the problem is resolved. The manual states that "PRIORITY #0, 1 and 2 calls will be made to non-members as well as members."

Also attached at Exhibit 2 are various high priority dispatch tickets from the same auto club. A ticket dated June 27, 1993 reports "Baby locked in car and motor running/lockout." Other high priority dispatch tickets report babies locked inside cars. A ticket dated April 29, 1992 reports "Mom short of breath upset heart problem"



is invited to the immediate response attained because of dedicated communications facilities.

As AAA noted in its initial comments, many police departments also rely on the auto clubs to fulfill public safety functions.

Finally, attached at Tab 4 are letters and articles from the California State Automobile Association, which were highlighted in the AAA's initial comments.

The AAA concurs with other commentators highlighting safety protection radio uses by non-government PLMRS licensees. Placement of AAA radio services in the Public Safety Radio Service, or a newly created Industrial Safety Service, would recognize that safety protection is performed over the spectrum by private entities, as well as government agencies.

## **II. THE RECORD SUPPORTS EXCLUSIVITY AWARD BASED UPON SAFETY USE OR OTHER SHOWINGS, IN ADDITION TO SIMPLE MOBILE LOADING COUNTS**

AAA concurs with and supports comments of American Petroleum Institute (API), Coalition of Industrial and Land Transportation Land Mobile Radio Users (Coalition), the Land Mobile Communications Council (LMCC), the Utilities Telecommunications Council (UTC) and MCI Telecommunications (MCI) all of which urge flexible standards for granting

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comments at page 22 recommending that safety considerations justify exclusivity. AAA also concurs with MCI comments at page 2 which oppose using a strict count of mobile units to award EUO, and instead urge basing exclusivity criteria on the average and peak number of minutes per day, and daily pattern of use. The AAA also supports API comments at pages 11-14 recommending that EUO be based not only on mobile loading standards, but also on safety considerations. In particular, AAA supports API comments which state at page 12 that

Generally speaking, the EUO proposal relies too heavily on the use of mobile loading standards to ensure efficient use of the radio spectrum. This measure is not necessarily an accurate or appropriate gauge to use for exclusivity determination. Traffic volumes, actual coverage areas, and system geographic location are equally important criteria. While realizing that mobile transmitter count provides a convenient measure for the Commission's purposes, the API urges that the rule be structured in such a manner as to provide exceptions based on other important considerations.

The AAA also concurs with comments of UTC at page 49 urging that public safety systems not operating in the Public Safety Radio Service should be eligible for EUO. In particular, AAA supports UTC comments at pages 52-53 urging that all critical-use systems should concur in the granting of an EUO application, and should themselves be eligible for EUO, regardless of loading.

The common theme of the above-cited comments is that simple mobile loading count should not remain the sole basis for awarding exclusivity, or for EUO award. The Commission should exercise its delegated spectrum management authority, and award exclusivity based upon other showings. Exclusivity showings which have broad support on the record are (1) safety use, (2) system design or geographic considerations, and (3) traffic volumes.

In particular, the AAA should continue exclusive use of its frequencies based upon safety considerations, and on traffic volumes. As shown herein, and in the AAA's initial comments, auto club use of the spectrum involves a heavy public safety or critical-use component. There is support on the record for grant of exclusivity on this basis alone. Moreover, use of auto club frequencies can become extraordinarily heavy during a regularly recurring weather disruptions such as extreme hot or cold spells, and thunderstorms. Upon occurrence of these events, AAA call volume and corresponding radio dispatch volume ordinarily triples, resulting in nearly non-stop transmission over auto club channels. Based upon public safety considerations and upon heavy use patterns (when public safety considerations are the highest), AAA frequencies are inappropriate for sharing.

Thus, the AAA concurs with support on the record for (1) award of exclusivity based upon safety considerations,

traffic volume or system design considerations; (2) award of EUO based upon the same criteria; and (3) FCC recognition that use of simple mobile loading count is merely an administrative convenience for awarding exclusive use, and does not fully reflect actual usage. AAA urges retention of exclusive auto club use of currently allocated auto club frequencies.

**III. CURRENT FREQUENCY COORDINATION RULES SHOULD BE CONTINUED: RETAIN EXISTING FREQUENCY COORDINATOR ENTITIES, AND ABANDON PROPOSED VERTICAL CHANNEL STACKING RULES**

**A. AAA should retain coordination responsibility for its own frequencies**

AAA urges that coordination of auto club frequencies remain the responsibility of eligible auto club associations. However, comments of National Association of Business and Education Radio (NABER) recommend, at page 29, consolidation of the frequency coordination committees into "partnerships." NABER comments also recommend at page 30 use of a "real time" database, to minimize the chance of competing coordinations being submitted to the FCC. Commentors supporting the independent role of separate frequency coordinating entities include American Petroleum Institute (API) (pp. 14-17) and the Coalition of Industrial Land Transportation and Mobile Radio Users (Coalition) (p. 27).

The AAA opposes comments of NABER to the extent that they favor consolidation of frequency coordination. The AAA

reiterates its support for independent frequency coordination  
and in particular for auto club coordination of its own  
frequencies. Auto club coordination presents unique

that "there should be nothing in the Commission's rules to prevent multiple coordinators from implementing such a "real time" database. . . ." Until such a database is developed, and is deemed by the Commission to be the "official" database, there always will be a potential problem with competing coordination, unless the FCC takes on the coordination function itself. Clearly, this is not a viable solution. The only viable solution is development of a "real time" database. Elimination of representational coordination, in favor of a few large coordinating entities would not solve the problem. AAA supports the comments of API and the Coalition favoring continued independent coordination. In particular, the AAA urges that eligible auto club associations retain exclusive responsibility for coordination of their own frequencies.

**B. The record shows broad support for abandoning proposed vertical channel stacking requirements.**

AAA concurs with very broad support on the record for abandoning the Commission's proposed "vertical stacking" requirement for coordinators. AAA supports comments of AMRA (p. 8), the Coalition (p. 28), NABER (p. 36) and the Utilities Telecommunications Council (UTC) (pp. 13-14), all of which oppose the proposed vertical stacking requirements. As AAA noted in its initial comments, requiring the frequency coordinator to stack shared users on a presently licensed channel amounts to a de facto warehousing of frequencies. It

does not matter to the licensee experiencing intolerable levels of co-channel interference whether spectrum has been warehoused because of Commission requirements, or private speculation. The effect is the same: shared channel users are intolerably crowded together, while other spectrum is withheld from use.

The AAA concurs with AMRA comments at page 8 opposing the vertical stacking requirements, where unused frequencies are available. The AAA similarly concurs with Coalition comments opposing vertical stacking requirements, since the public interest is not served by mere preservation of unused radio spectrum. AAA also concurs with NABER comments opposing proposed vertical stacking, and noting that such FCC warehousing likely would not achieve the spectrum efficiency sought, or be beneficial to smaller users.

The record demonstrates broad support for abandonment of proposed vertical stacking requirements. The AAA urges continuation of current horizontal coordination policy.

**IV. THE RECORD DEMONSTRATES NEAR UNANIMOUS OPPOSITION TO PROPOSED ONEROUS POWER RESTRICTIONS. THESE SELF DEFEATING MEASURES SHOULD BE ABANDONED IMMEDIATELY.**

The AAA concurs with the near unanimous opposition to effective radiated power (ERP) restrictions based upon height above average terrain (HAAT). The following commentators have opposed these onerous proposals: American Association of State Highway and Transportation Officials (AASHTO), American Mobile Radio Association, Inc. (AMRA), American Petroleum

Institute (API), Associated Public-Safety Communications Officers, Inc. (APCO), Bell Atlantic Personal Communications, Inc. (Bell Atlantic), Coalition of Industrial and Land Transportation Land Mobile Radio Users (Coalition), E.F. Johnson Company (E.F. Johnson), Industrial Telecommunications Association, Inc., et. al. (ITA), International Bridge, Tunnel and Turnpike Association (Turnpike), Land Mobile Communications Council (LMCC), MCI Telecommunications (MCI), Motorola, Inc. (Motorola), National Association of Business and Educational Radio (NABER), Network USA, Southern California Edison Company (SCE), Telecommunications Industry Association (TIA), and Utilities Telecommunications Council (UTC).

The Commission should heed the overwhelming opposition from every important sector of the PLMRS community on this issue. The proposed onerous power restrictions should be abandoned.

AAA supports comments of AMRA, which opposes proposed power limits at page 5 because they are "unrealistically low". As AMRA correctly noted, proposed power limits would result in the need for additional repeater stations and would create financial, environmental and zoning problems. As AMRA further noted, proposed power limitations also would defeat the spectrum conservation objectives of this proposal, because those who need to cover large areas would be forced to use additional frequencies.